



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated June 23, 2021, which reads as follows:

“G.R. No. 215645 (*Benedicta L. Salcedo, represented by her Attorney-in-fact, Luneta S. Ydel vs. Twenty-First Division of the Court of Appeals, Resty Reger C. Bagongon, Girlie Ann B. Agustin, and Liezel B. Pajaron*). - Challenged in this Petition¹ for *Certiorari* are the July 31, 2014² and November 13, 2014³ Resolutions of the Court of Appeals (CA) in CA-G.R. SP No. 06055-MIN which denied petitioner Benedicta Salcedo’s (Benedicta) prayer for issuance of a temporary restraining order (TRO) of the July 8, 2013⁴ and January 13, 2014⁵ Orders of the Regional Trial Court (RTC), Branch 20, Cagayan de Oro City in Civil Case No. 2011-034.

Factual Antecedents:

This case stemmed from the unlawful detainer case filed by the respondents against Benedicta and Salome Labalan (Salome).

The subject property, Cadastral Lot Nos. 19178 and 1980 with an area of 12,075 square meters (sqm.) and located along Quezon Street, Zone 2, Agusan, Cagayan de Oro City, was originally owned by a certain Buenaventurada Salon (Buenaventurada) who had six children, namely, Pedro S. Eduria (Pedro), Arcadio S. Eduria (Arcadio), Eusebio S. Eduria (Eusebio), Gliceria S. Eduria (Gliceria), Eugenia S. Eduria (Eugenia) and Leoncio S. Eduria (Leoncio).

Thereafter, the spouses Pio (Pio) and Adelaida (Adelaida) Bagongon (collectively, Spouses Bagongon) became the registered owners of the subject

¹ *Rollo*, pp. 3-55.

² CA *rollo*, pp. 314-317; penned by Associate Justice Oscar V. Badelles and concurred in by Associate Justices Romulo V. Borja and Maria Filomena D. Singh.

³ *Id.* at 370-371.

⁴ *Id.* at 229-233; penned by Presiding Judge Bonifacio M. Macabaya.

⁵ *Id.* at 249-253.

property. Pio inherited Lot No. 2, a portion of the subject property from his mother, Gliceria. He acquired the other portions, Lot Nos. 1 and 3, by virtue of a Deed of Absolute Sale dated August 17, 1973 from the heirs of Leoncio. Pio also inherited 1/3 of Lot Nos. 4 and 5 from his uncles Pedro and Arcadio.

On June 24, 1976, Eugenia, the mother of Benedicta and grandmother of Salome, sold her share on the subject property, Lot No. 6, to a certain Pablo Paras. Thus, Salome sought permission from Pio to allow her to temporarily occupy a portion of Lot No. 3, while Benedicta requested permission to construct a wooden house on Lot No. 1, which lots were acquired by Pio from the heirs of Leoncio. Pio graciously consented to the requests of Salome and Benedicta provided that they would voluntarily vacate when he or his family would need the said subject property.

On February 2, 1979, upon the death of Pio, his spouse Adelaida continued to tolerate the occupation of Benedicta and Salome on the said portions of the subject property. However, in evident bad faith, Benedicta and Salome made permanent improvements on their respective houses. In 2005, they claimed ownership over portions of the lots they occupied.

Hence, respondents, as heirs and/or successors-in-interest of the spouses Bagongon, demanded Benedicta and Salome to vacate the premises and to pay rentals thereon but they failed.

Perforce, on April 25, 2007, respondents filed a Complaint for Unlawful Detainer against Benedicta and Salome.

Ruling of the Municipal Trial Court in Cities (MTCC):

On December 15, 2010, the MTCC of Cagayan de Oro City, Branch 1, rendered a Decision⁶ in favor of respondents. It ordered Benedicta and Salome, their agents, assigns, representatives and successors-in-interest to vacate and surrender the possession of Lot Nos. 1 and 3 of the consolidated plan of Lot Nos. 19177, 19178, 1980 and 19193 to respondents, their assigns, agents, representatives and administrators. It further ordered petitioner to pay respondents the following: ₱500.00 per month as reasonable compensation for the use and occupation of the portion occupied by her from February 26, 2007 until she shall have vacated the same; (b) ₱10,000.00 as reasonable attorney's fees; (c) ₱3,430.00 as litigation expenses; and (d) costs of suit. Petitioner Benedicta and Salome's counterclaims were dismissed.

Ruling of the Regional Trial Court:

The RTC, in its July 8, 2013 Decision, affirmed the December 15, 2010 Decision of the MTCC. It held that respondents' cause of action for unlawful

⁶ Id. at 143-149; penned by Jude Cesar A. Merlas.

detainer was based on alleged ownership as evidenced by: (a) Tax Declarations; (b) Land History Records; (c) Deed of Absolute Sale dated August 17, 1973 covering Lot Nos. 4 and 5 executed by the heirs of Leoncio over the hereditary shares in the parcels allocated to Pedro and Arcadio; and (d) the Deed of Absolute Sale dated June 24, 1976 covering Lot No. 6 executed by Eugenia in favor of Pablo Paras and witnessed by Benedicta with a manifestation of waiver by Salome over the portion of Lot No. 3 which the latter occupied by mere tolerance. The trial court found preponderant evidence in favor of respondents and denied Benedicta and Salome's claim for possession of the portions of the subject property.

Ruling of the Court of Appeals:

Petitioner filed a petition for review⁷ before the CA and prayed for the issuance of a TRO and/or writ of preliminary injunction. However, on July 31, 2014, the CA issued its assailed Resolution denying Benedicta and Salome's prayer for the issuance of a TRO. A motion for reconsideration was filed by petitioner and Salome which was likewise denied by the appellate court in its November 13, 2014 Resolution.

Hence, Benedicta filed this petition for *certiorari* under Rule 65 before this Court. Meanwhile, petitioner died on July 10, 2015 and was substituted by her attorney-in-fact, Luneta S. Ydel (Ydel).

On January 29, 2016, during the pendency of the herein petition, the appellate court rendered its Decision denying Benedicta's petition for review. The CA found preponderant evidence in favor of respondents who presented the following documentary evidence: (a) deed of conveyance executed by the heirs of Leoncio; (b) deed of absolute sale executed by Eugenia; (c) manifestation of waiver of Salome; (d) land history records; and (e) tax declarations. Hence, the appellate court ruled that respondents have a better right of possession over the subject property.

Our Ruling

We dismiss the petition for being moot.

Clearly, the subsequent promulgation of the January 29, 2016 Decision of the appellate court denying Benedicta's petition for review of the July 8, 2013 and July 22, 2013 Orders of the RTC rendered this petition for *certiorari* assailing the validity of the July 31, 2014 and November 13, 2014 Resolutions of the appellate court denying petitioner's prayer for TRO and/or writ of preliminary injunction moot. With the January 29, 2016 Decision of the CA adjudicating Benedicta's petition on the merits, petitioner's prayer for issuance of a TRO and/or writ of preliminary injunction is ultimately denied by the appellate court. An issue is said to have become moot and academic

⁷ Id. at pp. 2-31.

when it ceases to present a justiciable controversy so that a declaration on the issue would be of no practical use or value.⁸

Also, the availability of appeal renders this petition for *certiorari* superfluous and warrants its dismissal as the remedies of appeal and *certiorari* are mutually exclusive and not alternative or successive. Besides, the grant of the petition for *certiorari* on mere incidental matters of proceedings would not accord any practical relief to petitioner because the appellate court had already decided on the main case which may therefore be elevated on appeal before this Court. To reiterate, this Court cannot anymore pass on the merits of this *certiorari* case as there would be no useful purpose for such in view of the decision of the appellate court on the main case.

Admittedly, Courts could nevertheless decide moot and academic cases if: *first*, there is a grave violation of the Constitution; *second*, the exceptional character of the situation and the paramount public interest is involved; *third*, when constitutional issue raised requires formulation of controlling principles to guide the bench, the bar, and the public; and *fourth*, the case is capable of repetition yet evading review.⁹ However, these exceptions do not obtain in this petition.

Neither can this Court decide on the main issue of who has the better right of possession over the subject property. *Certiorari* under Rule 65 is a special civil action to determine grave abuse of discretion amounting to lack or in excess of jurisdiction and not errors of judgment which may be reviewed or corrected only by appeal. A petition for *certiorari* seeks to correct errors of jurisdiction while a petition for review seeks to correct errors of judgment committed by the court. Errors of judgment include errors of procedure or mistakes in the court's findings. Where a court has jurisdiction over the person and subject matter, the decision on all other questions arising in the case is an exercise of that jurisdiction.¹⁰

Given the foregoing, there exists no cogent reason to further dwell on the issue regarding the appellate court's alleged grave abuse of discretion in issuing its July 31, 2014 and November 13, 2014 Resolutions.

WHEREFORE, the Petition for *Certiorari* is **DISMISSED** for being moot and academic.

⁸ *King v. Court of Appeals*, 514 Phil. 465 (2005).

⁹ *Republic v. Moldex Realty, Inc.*, 780 Phil. 553 (2016).

¹⁰ *Heirs of Loyola v. Court of Appeals*, 803 Phil 143 (2017), citing *Microsoft Corp. v. Best Deal Computer Center Corp.*, 438 Phil. 408 (2002).

SO ORDERED."

By authority of the Court:

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Division Clerk of Court
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[Civil Case No. 2011-034]

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